IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 22801 of 1999

Between:

M/s. Bajarang Ceramic Agency situated at Risala Abdulla,
Hyderabad, Rep. by its Proprietor, Girdharilal S/o. Balumukund aged about 48 years,
R/o. Hyderabad.

..... PETITIONER

AND

1 Commercial Tax Officer
Osmangunj Circle, Hyderabad.
2 State of A.P. Rep. by its State Representative before the
Sales Tax Appellate Tribunal of Andhra Pradesh at Hyderabad.
3 Principal Secretary to the Revenue Department

Government of Andhra Pradesh,
Secretariat at Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the G.O.Ms.No.604, dt.25-6-1994 as only clarificatory in nature and should take effect from the date of 31-12-1992 and declare the petitioner as eligible for exemption against the sales of chimneys to kerosene lamps, lanterns purchased from outside the State to A.P., vide G.O.Ms.No. 1238, dated 31-12-1992 and

consequently, quash the assessment order dated 5-9-1994 for the assessment year 1993-94 as confirmed by the Tribunal in T.A. No. 516/95, dated 13-5-1999 or in alternative declare G.O.Ms.No.1238. dt.31-12-1992 as ultravires, contrary to law, discriminatory and consequently quash the same as violative of the Constitution of India by issuing a Writ of Certiorari or any other appropriate Writ or Order or direction as the Hon'ble Court may deem fit and proper in the Hon'ble Court may deems fit and proper in the circumstances of the case and to allow the Writ Petition with costs.

Counsel for the Petitioner: MR.TEJPRAKASH TOSHNIWAL

Counsel for the Respondent No.: SPL GP FOR TAXES

The Court made the following :

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ORDER:(Per BRSR,J)

It is brought to our notice by the learned Special Standing Counsel for the Department that the petitioner herein preferred T.R.C.No.240 of 1999 against the order passed by the Tribunal in T.A.No.516 of 1995, dated 13-05-1999, and the same was dismissed by this court vide its order dated 07-02-2000. Thus, the order passed by the Tribunal in T.A.No.516 of 1995, dated 13-05-1999 has attained finality.

In the circumstances, no relief could be granted to the petitioner in this writ petition and it is not permissible for this court to reopen the proceedings as any such thing may amount to reviewing or reconsidering the order passed by this court in T.R.C.No.240 of 1999. In the normal course, this writ petition ought to have been heard and disposed of along with T.R.C.No.240 of 1999, but obviously the factum of pendency of this writ petition was not brought to the notice of the court while it disposed of T.R.C.No.240 of 1999.

For the aforesaid reasons, we find no merit in this writ petition and the same shall accordingly stand dismissed without any order as to costs.

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B.SUDERSHAN REDDY, J

Date: 07-06-2005

RAMESH RANGANATHAN, J

Prv/Msv

To

1 The Commercial Tax Officer
Osmangunj Circle, Hyderabad.

2 The State Representative, State of A.P.,
Sales Tax Appellate Tribunal of Andhra Pradesh

at Hyderabad.

3 The Principal Secretary to the Revenue Department

Government of Andhra Pradesh,
Secretariat, Hyderabad.

4 Two CCs to Special G.P. for Taxes, High Court of A.P.,

Hyderabad (OUT).

5 Two CD copies.